

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

RAYMOND WARE,	)	CIVIL NO. 04-00671 HG LEK
	)	
Plaintiff,	)	DECLARATION OF COUNSEL
	)	
vs.	)	
	)	
MICHAEL CHERTOFF, Secretary,	)	
Department of Homeland Security;	)	
JOHN DOES 2-5,	)	
	)	
Defendants.	)	
_____	)	

DECLARATION OF COUNSEL

DAPHNE BARBEE, declares under penalty of perjury, as follows:

1. Declarant is the attorney representing plaintiff RAYMOND WARE in the above-entitled action.

2. Trial is scheduled for March 11, 2008 in Honolulu, Hawaii.

3. An important witness, Mr. Allen Wiley, lives in Seattle, Washington.

Mr. Willey's his attorney contacted declarant on Tuesday, March 4, 2008 and faxed over a physician letter from Dr. Friedman indicating that his client was ill

and should “not fly to Hawaii for legal proceedings because of medical problems which could potentially endanger his health and safety.” See Exhibit 1 and 2.

4. Declarant confirmed with Mr. Willey’s attorney that he could be made available in Seattle for testifying by video in the Seattle Federal Courthouse.

5. Due to Mr. Wiley’s medical condition and inability to fly, declarant requests that this court allow him to testify by video. Defense Counsel contacted AUSA Tom Helper who does not object to this method of testifying.

6. Declarant submits that the witness Mr. Willey is an important witness as he was the Manager of TSA Honolulu Customer Support and Quality Improvement and has relevant information pertaining to plaintiff Ware’s work abilities and lack of complaints.

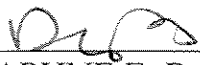
7. Due to the witness’s illness and unavailability, plaintiff request a brief continuance of this trial, i.e. one month.

8. Plaintiff requests in the alternative that this Court a grant a brief continuance of this trial, i.e. one month to allow both plaintiff and defense to depose Mr. Wiley in Seattle and to use the deposition as testimony at trial.

9. Plaintiff makes this motion not in an effort to delay but due to unforeseen circumstances beyond his control.

Further declarant sayeth naught.

DATED: Honolulu, Hawaii, 3-4-08.

  
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DAPHNE E. BARBEE  
Attorney for Plaintiff RAYMOND WARE